



A&Z LAW FIRM

## A&Z Monthly Newsletter

December 2018

Passion - Professionalism - Collaboration

Dear friends,

This is a monthly newsletter focusing on legal matters in China, and related issues that shape the general business environment for foreign companies operating in China.

Should you have any comments or questions, please do not hesitate to contact Ms. Mireia Paulo at [mpaulo@a-zlf.com.cn](mailto:mpaulo@a-zlf.com.cn), or visit [A&Z website](#).

Sincerely,

The Editors

### Legal Updates

- **[SAMR Urges E-commerce Business Operators to Register as Legal Market Players](#)**

The State Administration for Market Regulation ("SAMR") has recently issued the Opinions on Working Effectively on the Registration of E-commerce Business.

It is stated that an e-commerce business operator shall register itself as a market player according to law; where an e-commerce business operator opts to register itself as a privately-owned business, it is allowed to register its online business place as the site for business operations. Meanwhile, a privately-owned business that registers the online business place as its site for business operations will only be allowed to carry out business activities on the internet and is prohibited from changing the use of its residential house for the purpose of conducting offline production and business activities without authorization, and is required to make a commitment in this regard.

- **[State Council's Customs Tariff Commission to Adjust Tariffs on Some Imports and Exports from January 1, 2019](#)**

The Customs Tariff Commission of the State Council has recently issued the 2019 Plan for Adjustments to Temporary Tariff Rates for Imports and Exports and Other Tax Rates with effect from January 1, 2019.

The Plan states that from January 1, 2019, temporary tariff rates will take effect on 706 types of imported commodities. For instance, a new policy is introduced to impose zero tariffs on mixed meals and on some raw materials used to produce drugs, and 94 categories of commodities, covering fertilizer, apatite, iron sand, slag, coal tar, and wood pulp, will no longer be subject to tariffs when they are

### A&Z Upcoming events

#### **[17 January, Shanghai](#)**

The 15th A&Z Annual Gala will be held on January 17, 2019. Our firm will welcome clients and partners to participate in this event. The purpose of A&Z Gala is not merely to show our gratitude to our client's support for the past year, but also to promote exchanges and to facilitate further cooperation in the future.

#### **[6 January, Shanghai](#)**

A&Z Law Firm jointly with Shanghai Bid Data Social Application Research Association, among other institutions, will hold the "Legal Perspectives on Unmanned Driving in a New Era" seminar. Several well-known legal experts from China and Japan are invited to the seminar to discuss legal issues regarding unmanned driving.

### A&Z Past events

#### **[20 December, Shanghai](#)**

Mr. Peter Zeng, Partner, provided a seminar concerning the "2018 labor and personnel compliance" at A&Z. Mr. Zeng shared the new situation, features and trends in the labor field with the audience from the perspective of political and economic situation, in addition to review current labor laws and policies, and showing some cases from 2018. Finally, Mr. Zeng provided suggestions for companies regarding the development of labor and personnel work in 2019.

exported. In addition, China will apply conventional tariff rates to some commodities originating from 23 countries or regions such that tariff cuts will be offered under the free trade agreement between China and Peru, under the Asia-Pacific Trade Agreement (APTA).

- **SAMR Urges Effective Censorship of Ads for Drugs, Medical Devices, Dietary Supplements and FSMP**

The General Office of the State Administration for Market Regulation ("SAMR") has recently issued the Circular on Effectively Censoring Advertisements for Drugs, Medical Devices, Dietary Supplements and Foods for Special Medical Purposes.

It expresses arrangements in six aspects, including "working according to law on censoring advertisements for drugs, medical devices, dietary supplements and foods for special medical purposes (FSMP)" and "strictly censoring advertisements produced for drugs, medical devices, dietary supplements and FSMP". It also states that, the SAMR is working on enacting departmental rules concerning the censorship of drugs, medical devices, dietary supplements and FSMP. From January 1, 2019, the regulator will start using the new advertisement censorship documents, rules for assigning codes to advertisement approval documents and the official seal exclusively used for the censorship, for advertisements for drugs, medical devices, dietary supplements and FSMP.

- **Foreign Companies Can Seek Equity Financing in China**

The Standing Committee of the 13th National People's Congress opened its seventh session on December 23, 2018. The Foreign Investment Law (Exposure Draft) was deliberated for the first time at the session. The draft law said foreign-funded firms can obtain financing in China through such means as public share offerings and corporate bond sales.

- **China Implements Negative List for Market Access**

The Negative List for Market Access (2018 Edition) was released on December 25, 2018. It means that industries, fields and businesses out of the list are legally and equally accessible to all market entities. The list has two categories - banned access and permitted access - and 151 items (previous edition: 177). There are four items of banned access: projects that are not permitted to be invested or built according to the Catalogue for Guiding Industry Restructuring, illegal engagement in finance-related business activities, and illegal engagement in Internet-related business activities.

- **Draft Foreign Investment Law Released for Public Consultation**

The full text of the Foreign Investment Law of the People's Republic of China (Draft) (the "Draft"), deliberated at the Seventh Session of the Standing Committee of the 13<sup>th</sup> National People's Congress, has recently been released for public consultation by February 24, 2019.

The Draft expected to be a unified basic legislation for foreign investment. The Draft provides for: 1. the definition and scenarios of foreign investment; 2. investment promotion; 3. investment protection; and 4. investment administration. The Draft sets out provisions from four perspectives such as "improving the protection of property rights held by foreign-invested enterprises," in a bid to better safeguard legal rights and interests of foreign investors.

## A&Z Special Notice



## 14 December Shanghai

Ms. Sophie An, Director and Principal Partner, gave a lecture entitled "Explanation of compliance cases of Japanese enterprises and summary of environmental protection situation" at A&Z Law Firm. Attendees were enterprises that are members under the Jing'an District Drug Office. The lecture showed case studies regarding compliance risks that foreign enterprises commonly face. It also introduced the current regulatory requirements of environmental protection in China.

## 4 December, Shanghai

Mr. Andrew Zhang, Partner, was invited by Sumitomo Pharma (Suzhou) Co., Ltd. to give a lecture on "Brief introduction of Cyber Security, Data Compliance and Protection of Personal information." With the promulgation and implementation of relevant laws such as the Cyber Security Law, there is an increased focus of foreign-funded enterprises on the cyber security, data compliance and protection of personal information. Mr. Zhang has vividly introduced relevant laws and cases in details, which gave a comprehensive understanding of these matters to the audiences.

## About A&Z Law Firm

A&Z is a leading Chinese law firm, which employs over 50 experts composed of a team of professionals comprising attorneys, legal assistants, Japanese translators, client managers, and business specialists across 5 offices in 11 jurisdictions. Having been active in Shanghai since 2004, A&Z's presence was expanded through the establishment of offices in Beijing, Dalian, Wuhan, and Tokyo. A&Z focuses on advising multi-national groups, major corporations, banks, and SMEs on various legal issues relevant to their business endeavors.

A&Z's practices include Foreign Investment, Overseas Investment, Competition and Antitrust, Intellectual Property, M&A and Corporate

**Bright Dairy Accused of "Trademark Infringement" by Bakery Chain Store**

Recently, the trademark infringement case concerning "85°C" logo between Bright Dairy and Gourmet Master has gone through the second instance, during which Mr. Allen Zhao, A&Z senior attorney, was representing Bright Dairy. Shanghai Intellectual Property Court issued the second instance judgment which rejected all the claims raised by Gourmet Master in the first instance. The success of the case generated intense repercussions in Chinese media, and once more, showed A&Z's professionalism in the field of IP and litigation.

[Chinese Source.](#)

## Industry News

[Global investors optimistic about Chinese economy in 2019](#)

**Ren Ming Net, 27 December 2018**

[China to take further measures to expand opening-up](#)

**People's Daily, 26 December 2018**

[Ant Financial in talks to buy World First for \\$700m](#)

**Financial Times, 24 December 2018**

[China's new retail expected to create trillion-yuan market](#)

**People's Daily, 22 December 2018**

[Chinese bike-sharing start-up Ofo on verge of bankruptcy](#)

**Financial Times, 19 December 2018**

[IP Measures to Boost Development of Privately-Owned Enterprises](#)

**China IP News, 19 December 2018**

[China simplifies approval rules for new auto joint ventures](#)

**Xinhua, 19 December 2018**

[China's fixed-asset investment picks up pace](#)

**Xinhua, 14 December 2018**

[China's foreign direct investment plunges 27.6 % in November on trade war worries](#)

**South China Morning Post, 14 December 2018**

[China to overtake US as world's biggest fashion market in 2019](#)

**China Daily, 6 December 2018**

[Shanghai unveils plans for biological medicine industry](#)

**China Daily, 6 December 2018**

[China Patent Week Highlights Patent Value and Quality](#)

**China IP News, 5 December 2018**

Restructuring, Labour and Social Security, Dispute Resolution, Compliance and CSR, Finance and Capital Markets, Customs Logistics and Maritime Commerce, and Environment, Health and Safety (EHS).

The information contained in this Newsletter is for reference on matters of interest only, and is not intended to be comprehensive. Although we try to ensure accuracy, please note that the application and impact of laws can vary based on contextual and circumstantial variables. Before taking any action, please ensure that you obtain professional advice specific to your circumstances.

A&Z welcomes any and all questions pursuant hereto. For this reason, we recommend that you directly contact one of our attorneys in assisting you to address your needs.

There are numerous ways for you to keep up-to-date with legal updates, A&Z's practice, and valuable events:

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**A&Z Address:**

Unit 2001-2002, 20F, Tower 2, **Jing An Kerry Centre**

No.1515 Nanjing Road West

Shanghai, 200040 P.R.China

Tel.: +86-21-5466-5477

Fax: +86-21-5466-5977

For editorial and business development enquiries  
please contact Ms. Mireia Paulo at [mpaulo@a-zlf.com.cn](mailto:mpaulo@a-zlf.com.cn).

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